

REMARKS

Claims 25-37 remain pending in the present application. Claim 25 has been amended. Basis for the amendments can be found throughout the specification, drawings and claims as originally filed.

REJECTION UNDER 35 U.S.C. §112, SECOND PARAGRAPH

The Examiner has rejected Claims 26-37 under 35 U.S.C. §112, second paragraph alleging them to be indefinite for failing to particularly point out and distinctly claim subject matter which Applicant regards as the invention. Applicant has amended Claim 25 in an attempt to overcome the Examiner's §112 rejection. Claim 25 is now believed to have the proper antecedent basis. Accordingly, Applicant respectfully requests the Examiner to withdraw the §112 rejection.

REJECTION UNDER 35 U.S.C. §102(b)

The Examiner has rejected Claims 25-27 and 30 under 35 U.S.C. §102(b) alleging them to be anticipated by the German reference DE 9205302U.

Claim 25 defines, among other elements, a leveling mechanism comprising a light emitted device coupled with the power tool housing and the power source. The leveling mechanism is positioned inside of the power tool housing near the motor such that the power tool housing surrounds the leveling mechanism. The leveling mechanism includes a rotating member which seeks an equilibrium position which corresponds to a horizontal or vertical plane. The light emitting device projects through the power tool housing at a desired position on the power tool housing so that the light

emitting device illuminates in response to the rotating member equilibrium position to indicate to a user that the power tool is in a horizontal or vertical position.

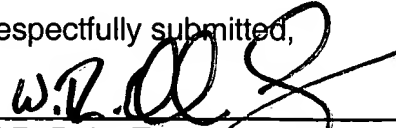
The German reference relied on by the Examiner fails to anticipate Applicant's invention. The German reference illustrates a pair of bubble levels identified by reference numerals 3 and 5. The bubble levels are located on the external surface of the power tool. The leveling devices are not positioned inside the power tool housing as claimed in Claim 25. Also, the Examiner indicates that the reference numeral 45 relates to a rotating member which seeks an equilibrium position. Figure 4 of the German reference illustrates an electrical schematic drawing. The electrical schematic drawing includes a mercury switch 43 with a mercury droplet 45. Accordingly, the reference fails to disclose a rotating member as claimed by Applicant.

Accordingly, the German '302 reference does not anticipate Claim 25 of Applicant's disclosure. In fact, the reference lacks several elements of the claimed disclosure. Accordingly, Applicant believes Claim 25 to be patentably distinct over the art cited by the Examiner. Likewise, Claims 26-37, which depend from Claim 25, are patentably distinct over the art cited by the Examiner.

In light of the above amendments and remarks, Applicants submit that all pending claims are in condition for allowance. Accordingly, Applicant respectfully requests the Examiner to pass the case to issue at her earliest possible convenience.

Should the Examiner have any questions regarding the present application, she should not hesitate to contact the undersigned at (248) 641-1600.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W.R. Duke Taylor', written over a horizontal line.

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